

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

SYLVESTER LEE BRANCH

PETITIONER

vs.

Civil Action No. 3:10-cv-255 HTW-LRA

STATE OF MISSISSIPPI

RESPONDENT

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter comes on pursuant to the Report and Recommendation of United States Magistrate Judge Linda R. Anderson and the written objection to the proposed findings and recommendation. Based upon the evidence therein contained, this court, having given full consideration to the aforesaid objection, finds that the motion of the respondent to dismiss the Petition for Writ of Habeas Corpus filed by petitioner should be denied. Therefore, the Report and Recommendation of the United States Magistrate Judge is hereby adopted as the order of this court.

Respondent's motion to dismiss [docket # 7] is denied without prejudice, and petitioner is given the opportunity to amend his Petition for Writ of Habeas Corpus.

**SO ORDERED, THIS THE 14th DAY OF APRIL, 2011.**

**s/ HENRY T. WINGATE  
UNITED STATES DISTRICT JUDGE**